

CCDLA
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March 30, 2015

Senator Eric Coleman, Co-Chair
Representative William Tong, Co-Chair
Judiciary Committee
Room 2500, Legislative Office Building,
Hartford, CT 06106

Re: Testimony in support of House Bill 7050 - *An Act Concerning The Juvenile Justice System.*

Dear Senator Coleman, Representative Tong and Committee Members:

The CCDLA is a not-for-profit organization of approximately three hundred lawyers who are dedicated to defending persons accused of criminal offenses. Founded in 1988, the CCDLA is the only statewide criminal defense lawyers' organization in Connecticut. An affiliate of the National Association of Criminal Defense Lawyers, the CCDLA works to improve the criminal justice system by insuring that the individual rights guaranteed by the Connecticut and United States constitutions are applied fairly and equally and that those rights are not diminished.

The CCDLA urges this committee to **vote favorably on HB 7050**. The CCDLA also supports the testimony submitted by the Office of the Chief Public Defender. This bill, along with other bills this committee has before it, would make Connecticut's juvenile justice system reflect the realities of the brain development of juveniles and change it to treat those juveniles in age-appropriate ways. There is a national consensus that juveniles are different than adults and should not be treated the same way.

Section 1 of this bill would address this in two ways: first, it would move Class B felonies - those that carry maximum prison sentences of 20 years - from cases that get *automatically* transferred to adult court to the group of cases that initially remain in juvenile court.¹ However, a prosecutor could still make a motion to have the case

¹ Currently, only prosecutors have the authority to return a case to juvenile court *from* adult court. Not even judges can do that.

transferred to adult court and judge would have to the power to order that transfer to adult court, if the individual circumstances of the case warranted it. In doing so, the judge would find that the best interests of society and the child aren't served by keeping the case in juvenile court. This is line with the thinking of recent Supreme Court cases which have emphasized that even young children who commit serious crimes are undeveloped and have tremendous potential for rehabilitation. This change would permit judges to make individual decisions in each case, by taking into account the specific circumstances of the crime and the child. By not automatically exposing children to the penalties of an adult court system along with the attendant felony convictions, we are ensuring that we make every reasonable attempt to allow these children to outgrow their criminal behavior and have the opportunity to contribute to society.²

Section 1 of this bill would also raise the age at which cases can be transferred to adult court by one year, to 15. The younger the children are, the greater their potential for rehabilitation and the greater their immaturity, lack of foresight and inability to understand the consequences of their actions. Connecticut should not expose children that young to harsh adult penalties. By keeping those young children in juvenile court, we are ensuring that the focus is less punitive and more rehabilitative.

Section 2 of this bill would protect children in vulnerable situations such as when they are being interrogated by police. Currently, there is an oddity in our law: statements given by children between 14 and 18 must be taken in the presence of a parent or guardian or after reasonable efforts are made to locate one. If taken in contravention to those requirements, the statement is inadmissible in any juvenile proceeding, but suddenly *becomes admissible if the case is transferred to adult court*.

This is counter-intuitive.³ A child facing serious charges which have the potential to be transferred to adult court should not be permitted to be pressured and coerced into waiving his rights and giving a confession without a parent or guardian present. The United States Supreme Court has recently reiterated that the age of a child is a critical factor in determining whether a statement was given voluntarily or not.⁴ Children

² For instance, the project 'We Are All Criminals' has a recounting of stories by adults who are all having successful careers in which they tell of their juvenile indiscretions and crimes. Available online at: <http://www.weareallcriminals.org/category/teens/>

³ Our supreme court has twice declined to apply the statute to children in adult court, while leaving it to the legislature to fix if it chooses to. Most recently, in State v. Canady, 297 Conn. 322 (2010), the court noted that the distinction would deprive some children of these protections.

⁴ J.D.B. v. North Carolina, 131 S. Ct. 2394 (2011).

between the ages of 14-18 are usually very acquiescent to authority and eager to please adults. We should not condone a system that has the potential to exploit that naive nature and use it against those children when the stakes are the highest: in adult court.

Section 4 of this bill addresses the shackling of children in court. The CCDLA supports the written testimony submitted by Jill Ruane, Ruane Attorneys and asks this committee to end this barbaric practice.

The CCDLA urges this committee to recognize those same concerns and vote favorably on **House Bill 7050**.

Respectfully submitted,
Elisa Villa
President